



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0067; Notice 1]

Ricon Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Ricon Corporation (Ricon) has determined that certain Ricon Baylift Series wheelchair lifts (Baylifts) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 403, *Platform Lift Systems for Motor Vehicles*. Ricon filed an original noncompliance report dated July 30, 2021, and subsequently petitioned NHTSA on August 26, 2021, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This notice announces receipt of Ricon's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov/> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Safety Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, 202-366-7236, ahmad.barnes@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Overview:

Ricon has determined that certain Ricon Baylift Series wheelchair lifts do not fully comply with the requirements of paragraphs S6.4.2, S6.4.4.3, S6.10.2.7, and S6.7.4 of FMVSS No. 403, *Platform Lift Systems for Motor Vehicles* (49 CFR 571.403). Ricon filed a noncompliance report dated July 30, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Ricon subsequently petitioned NHTSA on August 26, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that the noncompliances are inconsequential as they relate to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Ricon's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Equipment Involved:

Approximately 1,877 Ricon Baylift Series wheelchair lifts, manufactured between April 1, 2005, and April 22, 2020, are potentially involved.

III. Noncompliances:

Ricon explains that the subject lifts have four noncompliances related to both the design of the platform and the performance of the lifts. The first noncompliance is that the lift platform does not meet the unobstructed platform minimum operating volume at one particular location on the platform as required by paragraph S6.4.2.1 of FMVSS No. 403. Specifically, at the location of the lift platform counterbalance gas springs, the slight protrusion of the gas springs, and the gas

spring mounting hardware reduces the platform clear width to approximately 755.7 mm (29.75 inches) between the gas springs and 746.3 mm (29.38 inches) at the specific location of the gas spring mounting hardware. A minimum operating volume of 30 inches width at 2 inches above the platform surface. The platform meets the volume requirements in all other locations.

- The gap between the edge of the outer platform and the fully deployed outer barrier is marginally larger (approximately 2.38 mm (0.094 inches)) than the clearance test block specified in S7.1.3 and may allow the test block to pass through the gap when the long axis is held perpendicular to the platform reference plane as required in S6.4.4.3.
- The inner roll stop interlock may not sense the presence of the wheelchair test device in certain limited locations when tested to the provisions of S7.6.3. When the lift platform is at vehicle floor height with the inner barrier in the fully down (non-deployed) position and a wheelchair test device is placed in certain locations on the inner barrier with 1 or 2 front wheels on the inner roll stop, the inner roll stop may begin to deploy even though there is a wheelchair present.
- The wheelchair lift control does not conform to the simultaneous activation requirements of FMVSS 403 section S6.7.4 for the DEPLOY and DOWN command functions.

IV. Rule Requirements:

The following paragraphs of FMVSS No. 403 include the requirements relevant to this petition.

- S6.4.2: *Unobstructed platform operating volume.* S6.4.2.1 *Public use lifts.* For public use lifts, the minimum platform operating volume is the sum of an upper part and a lower part. The lower part is a rectangular solid whose base is 725 mm (28.5 in) wide by the length of the platform surface, whose height is 50 mm (2 in), and which is resting on the platform surface with each side of the base parallel

with the nearest side of the platform surface. The width is perpendicular to the lift reference plane and the length is parallel to the lift reference plane. The upper part is a rectangular solid whose base is 760 mm (30 in) by 1,220 mm (48 in) long, whose height is 711 mm (28 in), and whose base is tangent to the top surface of the lower rectangular solid. The centroids of both the upper and lower parts coincide with the vertical centroidal axis of the platform reference plane.

- S6.4.4.3: When the inner roll stop or any outer barrier is deployed, any gap between the inner roll stop and lift platform and any gap between the outer barrier and lift platform must prevent passage of the clearance test block specified in S7.1.3 when its long axis is held perpendicular to the platform reference plane
- S6.10.2.7: Vertical deployment of the inner roll is stop required to comply with S6.4.8 when it is occupied by portions of a passenger's body or mobility aid throughout the lift operations. When the platform stops, the vertical change in distance of the horizontal plane (passing through the point of contact between the wheelchair test device wheel(s) and the upper surface of the inner roll stop or platform edge) must not be greater than 13 mm (0.5 in). Verification of compliance with this requirement is made using the test procedure specified in S7.6.1.
- S6.7.4: Except for the POWER function described in S6.7.2.1, the control system specified in S6.7.2 must prevent the simultaneous performance of more than one function. If an initial function is actuated, then one or more other functions are actuated while the initial function remains actuated, the platform must either continue in the direction dictated by the initial function or stop. Verification of this requirement is made throughout the lift operations specified in S7.9.3 through S7.9.8.

V. Summary of Ricon's Petition:

The following views and arguments presented in this section, “V. Summary of Ricon’s Petition,” are the views and arguments provided by Ricon. They have not been evaluated by the Agency and do not reflect the views of the Agency. Ricon describes the four subject noncompliances and contends that the noncompliances are inconsequential as they relate to motor vehicle safety, “whether considered individually or as a whole.”

Ricon submits the following arguments for each of the noncompliances:

A. Unobstructed Platform Operating Volume

Ricon states that although the width at 2 inches above the platform surface measures 0.62 inches less than the required width, this condition “does not pose a safety risk or deny access to mobility users.” Ricon argues, the intent of this requirement “is to create a consistent platform size to ensure most users with mobility devices are able to access the platform and the vehicle” and cites 67 FR 79416 (December 27, 2002). Ricon also states that the Baylifts were not designed for use in public transit buses but to be installed in “specialized over the road buses such as motorcoaches that are used for tour operations.”

According to Ricon, there “is little to no risk that a user would be precluded from accessing the motorcoach” via the subject lifts can accommodate “a standard adult-sized manual powered wheelchair” as defined in the Americans with Disabilities Act. Further, Ricon found that 3 out of 45 powered wheelchairs and 1 of 14 scooters sold by “major mobility device manufacturers” were 30 or more inches wide.¹ Ricon also says that in NHTSA’s final rule for FMVSS Nos. 403 and 404,² it “recognized and accepted that not all mobility devices could necessarily be accommodated through the platform volume provision.” Ricon stated its belief that “the minor deviations in the platform volume

¹ Ricon submitted details of these findings in its petition which can be viewed in full at <https://www.regulations.gov/document/NHTSA-2021-0067-0001>.

² See Federal Motor Vehicle Safety Standards; Platform Lift Systems for Accessible Motor Vehicles, Platform Lift Installations on Motor Vehicles; 67 FR 79415 (December 27, 2002).

width at the extreme upper part of the platform would have no impact on the ability of a user with a standard wheelchair” and “limited, if any effect on powered mobility device users.”

B. Outer Barrier Gap

Ricon says that although the gap measures 2.38 mm (0.094 inch) more than the requirements allows, “the deviation is extremely slight” and does not pose a safety risk. Ricon provided photos in its petition³ to demonstrate that “the size of the gap with the exceedance is so small that it does not create an open space or a void between the testing block and the metal edge of the gap.” Ricon also says that because the “standard size of a walking cane tip” and the size of drive and caster wheels found on wheelchairs, are bigger than the gap, occupants using mobility devices would not be impacted. Additionally, Ricon says that the orientation in which these devices should be used would provide “no opportunity for the wheel or base to slip into the gap even in the unlikely scenario that a device had an extremely small base installed.” Ricon argues that occupants “are typically aided by trained personnel during entry and exit of the platform,” which it believes would further reduce the possibility of any safety risks associate with this noncompliance.

C. Inner Roll Stop Interlock

Ricon states that although the subject lifts may not meet the inner roll stop interlock requirement, the conditions given by the test procedure “are inconsistent with the manner in which the platform is loaded and unloaded in normal and real world operating conditions.” Ricon believes that this noncompliance is not consequential to safety because the operating procedures provided with the subject lifts state that the “user mobility device should be loaded with the rear wheels of the wheelchair first,” therefore, “the rear wheels would be sensed by the inner roll stop lock and the interlock would be

³ <https://www.regulations.gov/document/NHTSA-2021-0067-0001>.

activated.” Ricon also notes that “in normal operating conditions” the wheelchair user would be assisted by “trained personnel during entry and exit of the platform,” so “in the unlikely event” the wheelchair user is misoriented, the trained operator would step in to assist.

D. Control Pendant

Ricon then addresses the noncompliance concerning the control pendant and states that “due to the geometry of the pendant and buttons” it is highly unlikely to simultaneously activate the UP and DOWN buttons or the STOW and DEPLOY buttons. Ricon says that due to the buttons being spaced approximately 1.25 inches “between centers across the top surface of the pendant device,” Ricon argues that it would be difficult for an operator to “wrap their hand around the back of the pendant or contort their hand across the top of the pendant to across the top of the pendant” making it difficult and unlikely for the operator to activate multiple buttons simultaneously. Furthermore, Ricon says that “the pendants use four individual push style buttons that utilize a momentary switch to cause the lift to move up/down or stow/deploy” and “a separate button must be pressed downwards for each function.” Overall, Ricon argues the function will not be activated merely by making contact with the button surface; force must be deliberately applied to the button to engage it.

In the event that the up/down or stow/deploy buttons were to be activated simultaneously, Ricon explains that “because of the momentary switch design, the lift can only be activated for as long as the operator holds down the button,” therefore, “[a]s soon as the two buttons are released, the lift immediately stops movement.” Additionally, according to Ricon, if the operator were to continue to simultaneously press the UP and DOWN “the lift would change direction from the intended downwards movement and instead begin a normal upwards motion” at a speed that falls within the maximum platform velocity, as required by paragraph S.6.2.1 of FMVSS No. 403. Ricon also states

all occupants “must be secured in the platform by a safety belt which is a redundant safety feature.”

Ricon then goes on to explain that the STOW and DEPLOY can only be activated simultaneously “when the lift is located in the stowed position and is being commanded to deploy.” Ricon states that if these buttons were to be pressed at the same time, it would not impact safety “because the lift would be unoccupied” in the stowed position.

According to Ricon, NHTSA has previously granted petitions regarding noncompliances that are similar to the subject noncompliance. Ricon cites one petition from The Braun Corporation “where the lift handrails did not meet the values for deflection force.”⁴ Ricon explains that although “the handrails collapsed when exposed to forces above the threshold requirement, the handrails did not collapse or fail catastrophically,” and summarizes that NHTSA’s concern in “instituting the deflection force requirement was the possibility of a catastrophic failure of the handrails which would expose the occupant to a risk of injury.” Therefore, Ricon says, NHTSA “recognized” that the noncompliance in that case was not a safety concern that was intended to be addressed by handrail requirements.

Ricon says that, like the noncompliance found in the Braun Corporation’s petition, “there is little to no risk of harm or injury” caused by the subject noncompliances. Ricon then reiterates that it “[t]he slight design deviations in the unobstructed platform operating volume and the gap between the outer platform and fully deployed outer barrier do not present any risks to user safety, nor have these issues denied access to the vehicle for any mobility device users” and “under normal operating conditions, the inner roll stop interlock performs as required and not present any risk to the occupant.”

Ricon says that they are not aware of any users being denied access due to the noncompliance. Ricon says if they were to remedy the noncompliance, it would require them to

⁴ See “The Braun Corporation, Grant of Petition for Decision of Inconsequential Noncompliance,” 72 FR 19754 (April 19, 2007).

completely redesign the lifts. Ricon concludes its petition by stating that the subject noncompliances are inconsequential as they relate to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject lifts that Ricon no longer controlled at the time it determined that the noncompliances existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant lifts under their control after Ricon notified them that the subject noncompliances existed.

(**Authority:** 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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